

(vi) The nature and length of the professional relationship with the client;

(vii) The experience, reputation, and ability of the lawyer or lawyers performing the services; and

(viii) Whether the fee is fixed or contingent.

(6) When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing in representation.

(7) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (a)(8) of this section or other law. A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(8) A lawyer shall not enter into an arrangement for, charge, or collect:

(i) Any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of alimony or support, or property settlement in lieu thereof, or

(ii) A contingent fee for representing an accused in a criminal case.

(9) A division of fee between lawyers who are not in the same firm may be made only if:

(i) The division is in proportion to the services performed by each lawyer or, by written agreement with the client, each lawyer assumes joint responsibility for the representation;

(ii) The client is advised of and does not object to the participation of all the lawyers involved; and

(iii) The total fee is reasonable.

(b) [Reserved]

§ 776.25 Confidentiality of information.

(a) *Confidentiality of information.* (1) A judge advocate shall not reveal information relating to representation of a client unless the client consents after consultation, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraphs (a)(2) and (a)(3) of this section.

(2) A judge advocate shall reveal such information to the extent the judge advocate reasonably believes necessary to prevent the client from committing a criminal act that the judge advocate believes is likely to result in imminent death or substantial bodily harm, or significant impairment of national security or the readiness or capability of a military unit, vessel, aircraft, or weapon system.

(3) A judge advocate may reveal such information to the extent the judge advocate reasonably believes necessary to establish a claim or defense on behalf of the judge advocate in a controversy between the judge advocate and the client, to establish a defense to a criminal charge or civil claim against the judge advocate based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the judge advocate's representation of the client.

(b) [Reserved]

§ 776.26 Conflict of interests: General rule.

(a) *Conflict of Interests: General rule.*

(1) A judge advocate shall not represent a client if the representation of that client will be directly adverse to another client, unless:

(i) The judge advocate reasonably believes the representation will not adversely affect the relationship with the other client; and

(ii) Each client consents after consultation.

(2) A judge advocate shall not represent a client if the representation of that client may be materially limited by the judge advocate's responsibilities to another client or to a third person, or by the judge advocate's own interests, unless:

(i) The judge advocate reasonably believes the representation will not be adversely affected; and,